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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Thursday, July 28, 2016.

Met at seventeen minutes past eleven o'clock A.M. (Mr. Boncore in the Chair) (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair).

The Chair (Mr. Boncore), members, guests and staff then recited the pledge of allegiance to the flag.

Distinguished Guests.

There being no objection, the Chair (Mr. Boncore) introduced, in the rear of the Chamber, South Carolina State Senator of the 22nd District, Joel Lourie and South Carolina State Senator of the 27th District, Vincent Sheheen. They were accompanied by their wives Becky and Amy. The Senate welcomed them with applause, they signed the guest book and withdrew from the Chamber.

Communication

Communication from the Honorable Bruce E. Tarr, Senate Minority Leader, announcing the appointment (pursuant to Section 29 of Chapter 62 of the Acts of 2014) of Mr. Lou Cimaglia IV of Wilmington to the Massachusetts Post-Deployment Council,-- **was placed on file.**

Report of a Committee.

By Ms. L'Italien, for the committee on Consumer Protection and Professional Licensure, on petition, a Bill authorizing the issuance of a certain license for the retail sale of wine and malt beverages to be consumed on the premises in the town of Westhampton (Senate, No. 2413) [Local approval received];

Read and, under Senate Rule 26, placed in the Orders of the Day for the next session.

PAPERS FROM THE HOUSE

A petition (accompanied by bill, House, No. 4546) of Timothy R. Madden and Daniel A. Wolf (by vote of the town) that the town of Tisbury be authorized to grant additional licenses for the sale of all alcoholic beverages to be drunk on the premises,-- **was referred, in concurrence, to the committee on Consumer Protection and Professional Licensure.**

Bills

Providing timely consumer protection for users of real estate appraisal services (House, No. 269, amended,-- on petition); and Relative to streamlined low-voltage alarm system installation and permitting (House, No. 4547,-- on House, No. 3846);
Were severally read and, under Senate Rule 26, referred to the committee on Rules.

Bills

Authorizing the city of Springfield to convert certain park land at Emerson Wight Park (House, No. 4302,-- on petition) [Local approval received];

Authorizing the town of Orleans to amend a certain conservation restriction (House, No. 4447,-- on petition) [Local approval received];

Were severally read and, under Senate Rule 26, placed in the Orders of the Day for the next session.

Notice was received from the Minority Leader of the House of Representatives announcing that (under the provisions of Section 6C of Chapter 277 of the Acts of 2010) he had appointed Representative Kane of Shrewsbury to serve as his designee on the Massachusetts Food Policy Council, replacing Representative Berthiaume of Spencer.

Matters Taken Out of the Orders of the Day.

There being no objection, the following matters were taken out of the Orders of the Day and considered as follows:

The Senate Bill authorizing the commissioner of capital asset management and maintenance to convey a certain parcel of land in the town of Concord (Senate, No. 2272),-- **was read a third time and passed to be engrossed.**

The Senate Bill relative to the commonwealth's direct-care workforce for elderly and disabled consumers (Senate, No. 2466),-- **was read a third time.**

Pending the question on passing the bill to be engrossed, Ms. Jehlen presented an amendment inserting after section 1, the following 9 sections:-

“SECTION 1A. Section 72F of chapter 111 of the General Laws, as so appearing, is hereby amended by inserting after the definition of ‘abuse’ the following definition:-

‘Assisted living residence’, an entity required to be certified under chapter 19D.

SECTION 1B. Said section 72F of said chapter 111, as so appearing, is hereby further amended by inserting after the definition of ‘patient’ the following definition:-

‘Personal care services provider’, a person providing personal care services as defined in 651 CMR 12.02.

SECTION 1C. Said section 72F of said chapter 111, as so appearing, is hereby further amended by inserting after the figure ‘71’, in line 44, the following words:- or an assisted living residence certified under chapter 19D.

SECTION 1D. Section 72G of said chapter 111, as so appearing, is hereby amended by inserting after the word ‘therapist’, in lines 6 and 7, the following words:- , personal care services provider, nurse practitioner, registered dietician.

SECTION 1E. Said section 72G of said chapter 111, as so appearing, is hereby further amended by inserting after the word ‘agency’, in lines 28 and 33, in each instance, the following words:- , assisted living residence.

SECTION 1F. Said section 72G of said chapter 111, as so appearing, is hereby further amended by inserting after the word ‘facility’, in lines 39 and 40, the following words:- or assisted living residence.

SECTION 1G. Section 72H of said chapter 111, as so appearing, is hereby amended by inserting after the word ‘program’, in line 10, the following words:- , assisted living residence.

SECTION 1H. Said section 72H of said chapter 111, as so appearing, is hereby further amended by inserting after the word ‘facility’, in lines 17 and 19, in each instance, the following words:- or assisted living residence.

SECTION 1I. Section 72J of said chapter 111, as so appearing, is hereby amended by striking out the second and third paragraphs and inserting in place thereof the following 4 paragraphs:-

The registry shall also contain specific documented findings by the department, made in accordance with this section, of patient or resident abuse, mistreatment, neglect or misappropriation of patient or resident property involving an individual listed on the registry, a home health aide, a homemaker or a personal care services provider and a brief statement by the individual disputing those findings. In the case of inquiries to the registry concerning a nurse aide, a home health aide, a homemaker or a personal care services provider, any information disclosed concerning a finding of patient or resident abuse, mistreatment, neglect or misappropriation of patient or resident property shall also include a disclosure of any statement in the registry relating to the finding or a clear and accurate summary of any such statement. All facilities, home health agencies, assisted living residences and homemaker agencies shall contact the registry prior to hiring an employee to ascertain if there is a finding of patient or resident abuse, mistreatment, neglect or misappropriation of patient or resident property against a nurse aide, home health aide, homemaker or personal care services provider. No facility, home health agency, assisted living residence or homemaker agency shall hire an individual whose name appears in the registry with an adjudicated finding of patient or resident abuse, mistreatment, neglect or misappropriation of patient or resident property if that individual is under a suspension imposed by the department under the terms of this section.

The department shall make a finding as to the accuracy of allegations of patient or resident abuse, mistreatment, neglect or misappropriation of patient or resident property after providing notice to the nurse aide, home health aide, homemaker or personal care services provider involved in the allegation and a reasonable opportunity for a hearing for the individual to rebut such allegations. If the department finds that a nurse aide, home health aide, homemaker or personal care services provider abused, mistreated or neglected a patient or resident or misappropriated patient or resident property, the department shall notify the nurse aide, home health aide, homemaker or personal care services provider and the employer thereof and the registry of that finding. The department shall not make a finding that an individual has neglected a patient or resident if the individual demonstrates that such neglect was caused by factors beyond the control of the individual. Upon making a finding of patient or resident abuse, mistreatment, neglect or misappropriation of patient or resident property, the department may suspend the right of such individual to work as a nurse aide, home health aide, homemaker or personal care services provider. The department shall include the terms of any such suspension in the registry and no facility, home health agency, assisted living residence or

homemaker agency shall hire that individual until the suspension has been served to its completion.

If the individual is charged with and convicted of a crime arising out of a report of abuse, the department shall permanently suspend the individual's ability to work as a nurse aide, home health aide, homemaker or personal care services provider; provided, however, that if an individual's finding of guilt is overturned on appeal, the individual may appeal to the department to overturn the suspension.

If a case is continued without a finding, the department may permanently suspend an individual's ability to work as a nurse aide, home health aide, homemaker or personal care services provider and shall make such a finding on the record to that effect after notice to that individual and an opportunity to appeal; provided, however, that a case continued without a finding shall appear in the registry as part of the registrant's record for not less than the length of probation or sanction imposed on the individual by the court. A person who is subject to a temporary or permanent suspension shall not offer services, whether publicly or privately funded, as a caregiver or in another direct service capacity to persons with a physical, intellectual or developmental disability, a mental illness or to children or elderly persons. An individual in violation of this paragraph shall be subject to a fine of not more than \$5,000."

After remarks, the amendment was **adopted**.

The bill (Senate, No. 2466, amended) was then passed to be engrossed.

Sent to the House for concurrence.

The Senate Bill relative to amphibious sight-seeing vehicle safety (Senate, No. 2473),-- **was read a third time and, after remarks, was passed to be engrossed.**

Sent to the House for concurrence.

The Senate Bill relative to authorizing the temporary use of the Clapp Elementary School property in the City of Woburn for civic purposes (Senate, No. 2249) (its title having been changed by the committee on Bills in the Third Reading),-- **was read a third time and passed to be engrossed.**

Sent to the House for concurrence.

Reports of a Committee.

By Ms. Spilka, for the committee on Ways and Means, that the House Bill relative to the conveyance of an easement in the city of Chicopee (House, No. 4441),-- **ought to pass.**

There being no objection, the rules were suspended, on motion of Mr. Tarr, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

By Ms. Spilka, for the committee on Ways and Means, that the House Bill authorizing the Department of Fish and Game to acquire land of the town of Townsend (House, No. 3748, amended),-- **ought to pass.**

There being no objection, the rules were suspended, on motion of Mr. Tarr, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

PAPERS FROM THE HOUSE

A Bill authorizing the conveyance of certain property in the town of Stoneham (House, No. 4519,-- on House, No. 4294),-- **was read.**

There being no objection, the rules were suspended, on motion of Mr. Tarr, and the bill was read a second time and ordered to a third reading.

A Bill authorizing the Commissioner of Capital Asset Management and Maintenance to convey certain land in the town of New Salem (House, No. 4521, amended—on House, No. 4422),-- **was read.**

There being no objection, the rules were suspended, on motion of Mr. Tarr, and the bill was read a second time and ordered to a third reading.

A Bill authorizing the Massachusetts Department of Transportation to acquire certain parcels of land in the town of Weymouth (House, No. 4548,-- on House, No. 4389),-- **was read.**

There being no objection, the rules were suspended, on motion of Mr. Tarr, and the bill was read a second time and ordered to a third reading.

The Senate Bill authorizing the town of Mendon to return a certain parcel in the town of Mendon to John D. Gannett, Jr. and Ute D. Gannett (Senate, No. 2250),-- came from the House passed to be engrossed, in concurrence with an amendment striking out all after the enacting clause and inserting in place thereof the following:-

"SECTION I. Notwithstanding section 16 of chapter 30B of the General Laws, section 15A of chapter 40 of the General Laws or any other general or special law to the contrary, the town of Mendon, acting by and through the board of library trustees of the Taft public library and its board of selectmen, may convey by deed a certain parcel of real property consisting of 29.7 acres, more or less, located at 131 North avenue, to John D. Gannett, Jr. and Ute D. Gannett, on such terms and conditions as the board of selectmen may determine. Notwithstanding section 23 of chapter 184 of the General Laws, or any other general or special law to

the contrary, the board of selectmen may impose any conditions or restrictions, unlimited as to time, upon the parcel. The property is the parcel conveyed to the town of Mendon by a quitclaim deed of John D. Gannett, Jr. and Ute D. Gannett recorded with the Worcester South district registry of deeds at book 23337, page 345, as affected by an affidavit recorded with the Worcester South district registry of deeds at book 54429, page 23 and by a modification of restriction recorded with the Worcester South district registry of deeds at book 54429, page 30.

SECTION 2. This act shall take effect upon its passage.”.

The rules were suspended, on motion of Mr. Tarr, and the House amendment was considered forthwith and adopted, in concurrence.

Petitions were severally referred, in concurrence, as follows, to wit:

Petition (accompanied by bill, House, No. 4554) of Shawn Dooley relative to court ordered parenting time;

Under suspension of Joint Rule 12, to the committee on the Judiciary.

Petition (accompanied by bill, House, No. 4556) of Jonathan Hecht for legislation to establish a sick leave bank for Irene Carr, an employee of the Division of Professional Licensure;

Under suspension of Joint Rule 12, to the committee on Public Service.

Emergency Preamble Adopted.

An engrossed Bill relative to simulcasting and racing days (see House, No. 4459, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,-- **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 2 to 0.**

The bill was signed by the Acting President (Mr. Boncore) and sent to the House for enactment.

Engrossed Bills.

The following engrossed bills (both of which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, were severally passed to be enacted and were signed by the Acting President (Mr. Boncore) and laid before the Governor for his approbation, to wit:

Relative to respiratory therapy (see Senate, No. 1150, amended); and

Designating certain lands in the town of Adams for conservation and public recreation purposes (see Senate, No. 1631).

An engrossed Bill validating the actions taken at a special town meeting held in the town of Templeton (see House Bill, printed in House, No. 4439) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage was passed to be enacted, two-thirds of the members present having voted in the affirmative, and signed by the Acting President (Mr. Boncore) and laid before the Governor for his approbation

Reports of a Committee.

By Ms. Spilka, for the committee on Ways and Means, that the Senate Bill pertaining to the town of Bellingham and water main easement (Senate, No. 2117),-- **ought to pass, with an amendment substituting a new draft with the same title (Senate, No. 2475).**

There being no objection, the rules were suspended, on motion of Mr. Tarr, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

The bill (Senate, No. 2475) was then ordered to a third reading, read a third time and passed to be engrossed.

Sent to the House for concurrence.

By Ms. Spilka, for the committee on Ways and Means, that the Senate Bill authorizing the Commonwealth to grant an easement to the town of Barnstable and the town of Barnstable to grant or assign several conservation restrictions to the Commonwealth (Senate, No. 1990),-- **ought to pass, with an amendment substituting a new draft with the same title (Senate, No. 2474).**

There being no objection, the rules were suspended, on motion of Mr. Tarr, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

The bill (Senate, No. 2474) was then ordered to a third reading, read a third time and passed to be engrossed.

Sent to the House for concurrence.

By Ms Spilka, for the committee on Ways and Means, on petition (accompanied by bill, Senate, No. 1220), a Bill to reduce the risks associated with allergic reactions (Senate, No. 2468).

There being no objection, the rules were suspended, on motion of Mr. Tarr, and the bill was read a second time, and, after remarks, ordered to a third reading, read a third time and passed to be engrossed.

Sent to the House for concurrence.

By Ms. Spilka, for the committee on Ways and Means, that the Senate Bill relative to the licensure of motor vehicle inspection stations (Senate, No. 2264),-- **ought to pass, with an amendment substituting a new draft with the same title (Senate, No. 2476).**

There being no objection, the rules were suspended, on motion of Mr. Tarr, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

The bill (Senate, No. 2476) was then ordered to a third reading, read a third time and passed to be engrossed.. Sent to the House for concurrence.

PAPERS FROM THE HOUSE

Engrossed Bill.

An engrossed Bill relative to simulcasting and racing days (see House, No. 4459, amended) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and signed by the Acting President (Mr. Boncore) and laid before the Governor for his approbation.

Petitions were severally referred, in concurrence, as follows, to wit:

Petition (accompanied by bill, House, No. 4553) of Jose F. Tosado and others relative to foreclosures and vacant properties;
Under suspension of Joint Rule 12, to the committee on Housing.

Petition (accompanied by bill, House, No. 4555) of Thomas J. Calter that the Silver Lake Regional School District be authorized to convey a certain parcel of land to the town of Kingston;

Under suspension of Joint Rule 12, to the committee on Municipalities and Regional Government.

Recess.

There being no objection, at one minute past twelve o'clock noon, the Chair (Mr. Boncore) declared a recess subject to the call of the Chair; and, at four minutes before two o'clock P.M., the Senate reassembled, Mr. Boncore in the Chair.

PAPERS FROM THE HOUSE

A Bill designating the Westfield district courthouse as the John Greaney Courthouse (House, No. 1642,-- on petition),--was read.

There being no objection, the rules were suspended, on motion of Mr. Tarr, and the bill was read a second time and ordered to a third reading.

A Bill authorizing the grant of an easement to the town of Bourne and to grant to the Department of Fish and Game a conservation restriction on town land (House, No. 4516,-- on petition),-- was read.

There being no objection, the rules were suspended, on motion of Mr. Tarr, and the bill was read a second time and ordered to a third reading.

A Bill authorizing the division of capital asset management and maintenance to grant to The Association for Community Living, Inc. certain parcels of land in the city of Springfield (House, No. 4522,-- on House, No. 4454),-- was read.

There being no objection, the rules were suspended, on motion of Mr. Tarr, and the bill was read a second time and ordered to a third reading.

Emergency Preambles Adopted.

An engrossed Bill authorizing the Department of Fish and Game to acquire land of the town of Townsend (see House, No. 3748, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,-- **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 2 to 0. The bill was signed by the Acting President (Mr. Boncore) and sent to the House for enactment.**

An engrossed Bill relative to the conveyance of an easement in the city of Chicopee (see House, No. 4441), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,-- **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 2 to 0.**

The bill was signed by the Acting President (Mr. Boncore) and sent to the House for enactment.

A Bill authorizing the conveyance and change of use of a parcel of park land in the city of Salem (House, No. 4464,-- on petition),--**was read.**

There being no objection, the rules were suspended, on motion of Mr. Tarr, and the bill was read a second time and ordered to a third reading.

A Bill authorizing the town of Weston to transfer certain recreation land being portions of Nolte Forest (House, No. 4508,-- on petition),- **was read.**

There being no objection, the rules were suspended, on motion of Mr. Tarr, and the bill was read a second time and ordered to a third reading.

Order Adpoted.

On motion of Mr. Tarr,--

Ordered, That when the Senate adjourns today, it adjourn to meet on Saturday next at eleven o'clock A.M., in a full formal session with a calendar.

PAPER FROM THE HOUSE

The House Bill providing for the financing of certain improvements to municipal roads and bridges (House, No. 4424, amended),-- came from the House with the endorsement that the House had concurred in the Senate amendment with a further amendment striking out all after the enacting clause and inserting in place thereof he text contained in House document numbered 4557.

The rules were suspended, on motion of Mr. Tarr, and the further House amendment was adopted, in concurrence.

On motion of Mr. Tarr, at eighteen minutes past three o'clock P.M., the Senate adjourned to meet again on Saturday next at eleven o'clock A.M.